accumulations, or any expenses of leading the adjudication: and in this they had respect to the voluntary ratification above mentioned, which would have made the adjudication subsist to all effects, had it not been for the adjudger's back-bond. *Page* 64, No. 270.

1681. *December.* ROBERTSON *against* SIR PATRICK NISBET.

FOUND, That Sir Patrick Nisbet having given his vassal a feu-charter of some lands, with pertinents, for a feu-duty *pro omni alio onere;* the vassal might erect a brewery *in suo feudo*, though in barony, and the clause *cum breueriis*, was not insert in the charter; which, in Craig's opinion, page 181, passes with the feu, though not expressed. *Page* 162, No. 584.

1681. *December.* ROBERT SPEED *against* JOHN SPEED.

A PERSON being infeft by cognition, and hasp and staple, in a tenement of land in Brechin, and his sasine not registrat,—as if the tenement had been burgage, whereas it truly held feu of the bishop, and was only granted to the town during the suppression of prelacy,—he disponed the tenement; the disponer's son served heir to his grandfather, and raised reduction of his father's infeftment, as null, for not being expede *habili modo* by charter and sasine, upon retour or precept of *clare constat*, as other feus are acquired, nor yet registrat. The Lords found the father's infeftment null.

Index. Infeftment without registration, taken in feu-lands by cognition and hasp and staple, *ex errore*, as if they had been burgage, and not by charter and sasine, upon retour and precept of *clare*, found null. *Page* 164, No. 591.

1681. *December.* The LAIRD of CRAIGIVAR *against* JAMES SCOT.

THE defender, in a process of spuilyie, dying before litiscontestation, and decreet being extracted without any such objection made by his procurators, and his lands apprised thereon,—the Lords reduced the apprising as simply null, at the instance of another of the defunct's creditors, who had used posterior real diligence; and would not sustain it as a security for the sum that should be instructed to be due, otherwise than by not denying the libel.

Page 173, No. 629.

1681. *December.* DONNES *against* LISLE.

ALEXANDER Donne having died infeft in a tenement in the year 1658, his son, the apparent heir, continued in possession till 1663; after this Lisle entered up-

on a right from one Buse, and died infeft; and the heirs of Donne having got into possession, Lisle's heir recovered decreet of removing, of whose right the Donnes pursued a reduction *in anno* 1679. Alleged for the defenders, *Minor non tenetur placitare.* Answered, Alexander Donne, the pursuer's author, died in possession, and the defender provoked to judgment by the removing. The Lords sustained the answer.

Page 197, No. 698.

1681. *December* 1. GORDON *against* ROBERT BURNET.

A DISPOSITION of moveables, and sums of money on death, though to a conjunct person, a son-in-law, sustained to purge the passive title of vitious intromission.

Page 10, No. 43.

1681, *Dec.* 2; *and* 1682, *Jan.* 27. JOHNSTON *against* MELVIL.

AN adjudication against three sisters, heirs-portioners, whereof two renounced to be heir, found null as to the third of the sisters not renouncing, and restricted to the debt in the decreet *cognitionis causa;* as to which it was sustained; but, thereafter, January 27, 1682, the Lords sustained it only as a real security for the principal sum, annual-rent, and necessary expenses, and not for accumulations; and found, that it could not expire, though no order were used.

Page 1, No. 2.

1681. *December* 3. DALGARNO *against* URQUHART.

A SON forisfamiliated being pursued as vitious intromittor with his father's goods, his defence was, that he entered in possession of the goods only *custodiæ causa,* and got himself clothed with a gift of his father's escheat in a month after; which the Lords sustained in respect of the defender's great diligence to procure the gift.

Page 6, No. 25.

1681. *December* 3. SIR DAVID OGILVY *against* OGILVY of LOGIE.

A WRITTEN citation, before a baron court, to pay the rents contained in the pursuer's disposition and assignation, found to be a formal intimation, and sufficient to exclude a posterior arrester of the rents assigned; and the assignee's intimating judicially the said assignation in the baron court, and producing the same to the clerk in court, was sufficient intimation.

Page 18, No. 96.